



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180209147-8509-02]

RIN 0648-BH76

Fisheries of the Northeastern United States; 2018-2020 Small-Mesh Multispecies Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final 2018 and projected 2019-2020 specifications for the small-mesh multispecies fishery, and corrects an error from a previous action. The specifications are necessary to establish allowable catch limits for each stock within the fishery to control overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act. The intent of this action is to inform the public of these specifications for the 2018 fishing year, projected specifications for 2019-2020, and the regulatory correction.

DATES: Effective [*insert date of publication in the FEDERAL REGISTER*], through April 30, 2019.

ADDRESSES: Copies of these specifications, including the Environmental Assessment (EA), Regulatory Flexibility Act Analyses, and other supporting documents for the

action, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, Mid-Atlantic Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also accessible via the Internet at *www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The small-mesh multispecies fishery is managed by the New England Fishery Management Council within the Northeast Multispecies Fishery Management Plan (FMP). The fishery is composed of five stocks of three species of hakes: Northern silver hake; southern silver hake; northern red hake; southern red hake; and offshore hake. Southern silver hake and offshore hake are often grouped together and collectively referred to as “southern whiting.” Amendment 19 to the FMP (78 FR 20260; April 4, 2013) established a process and framework for setting catch specifications for the small-mesh fishery. The FMP requires the specification of an overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL), and total allowable landings (TAL) for each stock within the fishery for up to three years at a time, based on the most recent stock projections for upcoming years. This action implements the Council’s recommended small-mesh multispecies specifications for the 2018 fishing year, announces projected 2019 and 2020 specifications as recommended by the Council, and makes a minor regulatory correction.

The proposed rule for this action published in the **Federal Register** on April 12, 2018 (83 FR 15780), and comments were accepted through April 27, 2018. Additional background information regarding the development of these specifications was provided in the proposed rule (83 FR 15780; April 12, 2018) and is not repeated here.

Final Specifications

This action implements the final 2018 and projected 2019-2020 small-mesh multispecies specifications as proposed (Table 1). All other management measures in the small-mesh multispecies fishery (such as possession limits) will remain unchanged. By providing projected quotas for 2019 and 2020, NMFS hopes to assist fishery participants in planning ahead. The Council will review these specifications annually, and NMFS will provide notice prior to each fishing year to announce any necessary changes for 2019 and 2020. For more information on the Council's recommendations and decision-making process, please see the proposed rule (83 FR 15780).

Table 1. Small-Mesh Multispecies Specifications for Fishing Years 2018-2020, with Percent Change from 2017, in metric tons

	OFL	ABC	ACL	Percent Change	TAL	Percent Change
Northern Silver Hake	58,350	31,030	29,475	+27%	26,604	+33%
Northern Red Hake	840	721	685	+45%	274	+128%
Southern Whiting	31,180	19,395	18,425	-35%	14,465	-39%
Southern Red Hake	1,150	1,060	1,007	-38%	305	-59%

Regulatory Correction

This action also corrects regulatory text specifying the red hake possession limits in the southern small-mesh exemption areas (Southern New England and Mid-Atlantic Exemption Areas). In the 2015-2017 specifications for this fishery (May 28, 2015; 80 FR

30379), we implemented a new 3,000-lb (1,361-kg) red hake possession limit for the northern exemption areas, but we did not specify that the possession limit in the southern areas would remain 5,000 lb (2,268 kg). This action revises the regulations to specify the 5,000-lb (2,268-kg) possession limit for red hake harvested in the southern small-mesh exemption areas, as originally intended by the Council.

Comments and Responses

The public comment period for the proposed rule ended on April 27, 2018. We received three comments from the public on this rule. One commenter asked how the input of the active fishing community contributed to the development of these specifications. These specifications were developed through the Council process, which involved multiple discussions at public Council meetings (such as meetings on June 20, 2017, in Portland, ME; on September 26, 2017, in Gloucester, MA; and on December 7, 2017, in Newport, RI) where concerns and interests of the active fishing community were considered. Active members of the fishing community also sit on the Small-Mesh Multispecies (Whiting) Advisory Panel, which makes recommendations on management of the fishery to the Council and its Small-Mesh Multispecies Committee. The public comment period announced by the proposed rule was another opportunity for fishermen to offer suggestions and improvements to the specifications. The other two comments were not relevant either to this action or to fisheries in general and did not warrant a response. No changes to the proposed specifications were made as a result of these comments.

Changes from the Proposed Rule

There are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Small-Mesh Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness for this rule, to ensure that the final specifications are in place as close as practicable to the start of the 2018 small-mesh multispecies fishing year, which began on May 1, 2018. This action establishes the final specifications (i.e., annual catch limits) for the small-mesh multispecies fishery for the 2018 fishing year. A delay in effectiveness well beyond the start of the 2018 fishing year would be contrary to the public interest, as it could create confusion and potential economic harm to the commercial small-mesh multispecies industry. Additionally, it could compromise the effectiveness of the new specifications in achieving optimal yield and preventing overfishing.

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the submission of the EA, in support of the specifications, that is developed by the Council. A complete specifications document and accompanying EA was received by NMFS in late January 2018. Documentation in support of the Council's recommended specifications is required for NMFS to provide the public with information from the environmental and economic analyses, as required in rulemaking, and to evaluate the consistency of the Council's recommendation with the Magnuson-Stevens Act and other applicable law. The proposed rule published on April 12, 2018, with a 15-day comment period ending April 27, 2018.

Although the specifications from 2017 are carried into 2018 until the new catch limits are implemented, the Council has recommended changes based on the most recent assessment of the four main small-mesh multispecies stocks that should be in place as soon as possible. Harvest occurring within the first weeks of the fishing year based on old catch limits could be detrimental to southern hake stocks, including southern red hake, which is experiencing overfishing.

Furthermore, this action increases the northern silver hake quota by 33 percent and increases northern red hake quota by 128 percent, providing federally permitted vessels additional harvest opportunity for the 2018 fishing year. The timely implementation of these specifications will help to ensure that the industry has the opportunity to achieve optimal yield in the fishery, and to access the increased quotas for the northern stocks. It is also important to implement the lower southern stock catch limits as soon as possible to avoid the potential for overfishing. The commercial whiting

industry has been involved in the development of these specifications and is anticipating this rule. Therefore, there would be no benefit to delaying the implementation of these specifications. For these reasons, we find that there is good cause to waive the 30-day delay in the date of effectiveness.

Final Regulatory Flexibility Analysis

The final regulatory flexibility analysis (FRFA) included in this final rule was prepared consistent with 5 U.S.C. 604(a), and incorporates the initial regulatory flexibility analysis (IRFA) and a summary of analyses completed to support the action. A public copy of the environmental assessment/IRFA is available from the Council (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS did not receive any comments in response to the IRFA or regulatory flexibility analysis (RFA) process. Refer to the “Comments and Responses” section of this rule’s preamble for more detail on the public comments that were received. No changes to the proposed rule were required to be made as a result of public comment.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This final rule affects small entities engaged in commercial fishing operations within the small-mesh multispecies fishery that is a subset of the northeast multispecies fishery. For the purposes of the RFA analysis, the ownership entities (or firms), not the

individual vessels, are considered to be the regulated entities. Because of this, some vessels with northeast multispecies permits may be considered to be part of the same firm because they may have the same owners. In terms of RFA, a business primarily engaged in commercial fishing activity is classified as a small business if it has combined annual gross receipts not in excess of \$11 million (NAICS 11411) for all its affiliated operations worldwide. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. The current ownership data set used for this analysis is based on calendar year 2016 (the most recent complete year available) and contains average gross sales associated with those permits for calendar years 2014 through 2016.

The small-mesh exempted fishery allows vessels to harvest species in designated areas using mesh sizes smaller than the minimum mesh size required by Regulated Mesh Area (RMA) regulations. To participate in the small-mesh multispecies exempted fishery, vessels must possess either a limited access multispecies permit (categories A, C, D, E or F) or an open access multispecies permit (category K). Limited access multispecies permit holders can target small-mesh multispecies with different possession limit requirements depending on fishing region and mesh size used. Open access, Category K permit holders may fish for small-mesh multispecies when participating in an exempted fishing program. Therefore, entities holding one or more multispecies permits (permit type A, C-F, K) are the entities that have the potential to be directly impacted by this action. According to the commercial database, there were 853 distinct ownership entities, based on entities' participation during the 2014-2016 time-period, that could potentially

target small-mesh multispecies. This includes entities that could not be classified into a business type because they did not earn revenue from landing and selling fish in 2014-2016 and thus are considered to be small. Of the 853 total firms, 844 are categorized as small business entities and nine are categorized as large businesses.

While 853 commercial entities have the potential to be impacted by the proposed action, not all of these entities actively land small-mesh multispecies for commercial sale. There are 406 distinct entities that commercially sold small-mesh multispecies from 2014-2016 and may be directly affected by the proposed action. Of those, 404 are categorized as small businesses.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes

Specification of commercial catch limits is constrained by the conservation objectives of in the FMP and implemented at 50 CFR part 648 under the Magnuson-Stevens Act. This action implements final 2018 and projected 2019-2020 commercial catch specifications for the small-mesh multispecies fishery based on the most recent stock assessment update. The Council also considered taking no action, where the same catch limits and specifications from 2017 would continue into 2018 with no change. Only these two alternatives were considered by the Council. The alternative status quo

specifications do not address the overfishing and overfished designations raised by the 2017 stock assessment update, and thus do not meet the Magnuson-Stevens Act requirements. The specifications implemented by this final rule minimize the economic impacts on small entities to the extent practicable while adhering to the conservation requirements of the Magnuson-Stevens Act. As described in the proposed rule for this action, we do not anticipate these specifications to have a significant impact on those small entities to which this final rule would apply.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide was prepared and will be sent to all holders of Federal permits issued for the small-mesh multispecies fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS at the following website: www.greateratlantic.fisheries.noaa.gov.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 11, 2018.

Donna S. Wieting,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.86, revise the introductory text of paragraphs of (d)(1)(i), (ii), and (iii)

and add paragraph (d)(1)(v) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 in*

(6.35 cm). Owners or operators of a vessel may possess and land not more than 3,500 lb

(1,588 kg) of combined silver hake and offshore hake, if either of the following

conditions apply:

* * * * *

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 in (6.35 cm) but less than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 7,500 lb (3,402 kg) of combined silver hake and offshore hake if either of the following conditions apply:

* * * * *

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the GOM or GB Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the SNE or MA Exemption Areas, as described in § 648.80(b)(10) and (c)(5), respectively, if both of the following conditions apply:

* * * * *

(v) *Possession limits for red hake.* Vessels participating in the small-mesh multispecies fishery consistent with paragraph (d)(1) of this section, may possess and land not more than 3,000 lb (1,361 kg) of red hake when fishing in the GOM or GB Exemption areas, as described in §648.80(a), and not more than 5,000 lb (2,268 kg) of red hake when fishing in the SNE or MA Exemption Areas, as described in § 648.80(b)(10) and (c)(5), respectively.

* * * * *

[FR Doc. 2018-12780 Filed: 6/13/2018 8:45 am; Publication Date: 6/14/2018]